

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10
11 PETER M. ARENA,

12 Plaintiff,

13 v.

14 NAVARRO, *et al.*,

15 Defendants.

Case No. 1:20-cv-00617-BAM (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR COURT TO DENY OR STAY
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT AND GRANT PLAINTIFF
ADDITIONAL TIME TO OBTAIN
DISCOVERY AS MOOT

(ECF No. 28)

16
17 Plaintiff Peter M. Arena ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
18 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on
19 Plaintiff's first amended complaint against Defendants Medina, Allison, Ramos, Pacheco, and
20 Navarro for excessive force in violation of the Eighth Amendment. All parties have consented to
21 the jurisdiction of a United States Magistrate Judge for all further proceedings in this action,
22 including trial and entry of judgment. (ECF No. 35.)

23 On April 16, 2021, Defendants filed a motion for summary judgment on the grounds that
24 Plaintiff failed to exhaust his administrative remedies before filing suit. (ECF No. 26.) On May
25 3, 2021, Plaintiff filed a motion requesting that the Court deny or stay Defendants' motion for
26 summary judgment and grant Plaintiff 60 days to obtain discovery needed to proceed. (ECF No.
27 28.) Defendants filed an opposition on May 20, 2021. (ECF No. 33.)

28 ///

1 On May 28, 2021, Plaintiff filed his opposition to Defendants' motion for summary
2 judgment. (ECF No. 36.)

3 As the basis of Plaintiff's motion for the Court to deny or stay Defendants' motion for
4 summary judgment was that he needed additional time to obtain certain documents in order to
5 oppose Defendants' motion for summary judgment, and Plaintiff has now filed his opposition to
6 the motion for summary judgment, the Court finds that the motion is no longer necessary.
7 Plaintiff's opposition will be accepted as timely and Defendants will be permitted to file a reply.

8 Accordingly, IT IS HEREBY ORDERED as follows:

- 9 1. Plaintiff's motion requesting that the Court deny or stay Defendants' motion for summary
10 judgment and grant additional time to obtain discovery needed to proceed, (ECF No. 28),
11 is DENIED as moot;
- 12 2. Plaintiff's opposition to Defendants' motion for summary judgment, (ECF No. 36), is
13 accepted as timely; and
- 14 3. Defendants' reply to Plaintiff's opposition, if any, is due within **seven (7) days** of the date
15 of service of this order.

16
17 IT IS SO ORDERED.

18 Dated: May 28, 2021

18 /s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE